

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 581

99TH GENERAL ASSEMBLY

2018

4585H.03T

AN ACT

To repeal sections 512.180, 535.030, 535.110, 535.170, 535.200, 535.210, and 535.300, RSMo, and to enact in lieu thereof seven new sections relating to landlord tenant actions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 512.180, 535.030, 535.110, 535.170, 535.200, 535.210, 2 and 535.300, RSMo, are repealed and seven new sections enacted in lieu thereof, 3 to be known as sections 512.180, 535.030, 535.110, 535.170, 535.200, 535.210, and 4 535.300, to read as follows:

512.180. 1. Any person aggrieved by a judgment in a civil case tried 2 without a jury before an associate circuit judge, other than an associate circuit 3 judge sitting in the probate division or who has been assigned to hear the case 4 on the record under procedures applicable before circuit judges, shall have the 5 right of a trial de novo in all cases tried before municipal court or under the 6 provisions of chapter 482 or **535**.

7 2. In all other contested civil cases tried with or without a jury before an 8 associate circuit judge or on assignment under such procedures applicable before 9 circuit judges or in any misdemeanor case or county ordinance violation case a 10 record shall be kept, and any person aggrieved by a judgment rendered in any 11 such case may have an appeal upon that record to the appropriate appellate 12 court. At the discretion of the judge, but in compliance with the rules of the 13 supreme court, the record may be a stenographic record or one made by the 14 utilization of electronic, magnetic, or mechanical sound or video recording devices.

535.030. 1. Such summons shall be served as in other civil cases at least

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2 four days before the court date in the summons. The summons shall include a
3 court date which shall not be more than twenty-one business days from the date
4 the summons is issued unless at the time of filing the affidavit the plaintiff or
5 plaintiff's attorney consents in writing to a later date.

6 2. In addition to attempted personal service, the plaintiff may request,
7 and thereupon the clerk of the court shall make an order directing that the
8 officer, or other person empowered to execute the summons, shall also serve the
9 same by securely affixing a copy of such summons and the complaint in a
10 conspicuous place on the dwelling of the premises in question at least ten days
11 before the court date in such summons, and by also mailing a copy of the
12 summons and complaint to the defendant at the defendant's last known address
13 by ordinary mail at least ten days before the court date. If the officer, or other
14 person empowered to execute the summons, shall return that the defendant is not
15 found, or that the defendant has absconded or vacated his or her usual place of
16 abode in this state, and if proof be made by affidavit of the posting and of the
17 mailing of a copy of the summons and complaint, the judge shall at the request
18 of the plaintiff proceed to hear the case as if there had been personal service, and
19 judgment shall be rendered and proceedings had as in other cases, except that no
20 money judgment shall be granted the plaintiff where the defendant is in default
21 and service is by the posting and mailing procedure set forth in this section.

22 3. If the plaintiff does not request service of the original summons by
23 posting and mailing as provided in subsection 2 of this section, and if the officer,
24 or other person empowered to execute the summons, makes return that the
25 defendant is not found, or that the defendant has absconded or vacated the
26 defendant's usual place of abode in this state, the plaintiff may request the
27 issuance of an alias summons and service of the same by posting and mailing in
28 the time and manner provided in subsection 2 of this section. In addition, the
29 plaintiff or an agent of the plaintiff who is at least eighteen years of age may
30 serve the summons by posting and mailing a copy of the summons in the time and
31 manner provided in subsection 2 of this section. Upon proof by affidavit of the
32 posting and of the mailing of a copy of the summons or alias summons and the
33 complaint, the judge shall proceed to hear the case as if there had been personal
34 service, and judgment shall be rendered and proceedings had as in other cases,
35 except that no money judgment shall be granted the plaintiff where the defendant
36 is in default and service is by the posting and mailing procedure provided in
37 subsection 2 of this section.

38 4. The defendant has ten days from the date of the judgment to file a
39 motion to set aside the judgment **or to file an application for a trial de novo**
40 and unless the judgment is set aside **or an application for a trial de novo is**
41 **filed** within ten days, the judgment for possession will become final and the
42 defendant will be subject to eviction from the premises without further notice. On
43 the date judgment is rendered if the defendant is in default, the clerk of the court
44 shall mail to the defendant at the defendant's last known address by ordinary
45 mail a notice informing the defendant of the foregoing.

 535.110. Applications for **trials de novo and** appeals shall be allowed
2 and conducted in the manner provided [as in other civil cases] **in chapter 512**;
3 but no application for **a trial de novo or** an appeal shall stay execution unless
4 the defendant give bond, with security sufficient to secure the payment of all
5 damages, costs and rent then due, into court within ten days after an entry of the
6 judgment by the trial court, all other provisions of law to the contrary
7 notwithstanding. Additional conditions of the appeal bond shall be to stay waste
8 and to pay all subsequently accruing rent, if any, into court within ten days after
9 it becomes due, pending determination of the **trial de novo or**
10 appeal. Execution for the purposes of restoring possession shall be stayed
11 pending an appeal if the losing party posts a sufficient appeal bond.

 535.170. After the execution of any judgment for possession pursuant to
2 this chapter, the lessee and the lessee's assignees, and all other persons deriving
3 title under the lease from such lessee, shall be barred from reentry of such
4 premises and from all relief, and except for error in the record or proceedings, the
5 landlord shall from that day hold the demised premises discharged from the
6 lease. Nothing in this section shall preclude an aggrieved party from perfecting
7 an appeal **or securing a trial de novo** as to any judgment rendered, and may
8 as a result of such appeal **or trial de novo** recover any damage incurred,
9 including damages incurred from an unlawful dispossession.

 535.200. 1. In the twenty-second judicial circuit, upon adoption of an
2 ordinance by the City of St. Louis providing for expenditure of city funds for such
3 purpose, a majority of the circuit judges, en banc, may establish a landlord-tenant
4 court, which shall be a division of the circuit court, and may authorize the
5 appointment of not more than two landlord-tenant court commissioners. The
6 landlord-tenant court commissioners shall be appointed by a landlord-tenant
7 court judicial commission consisting of the presiding judge of the circuit, who
8 shall be the chair, one circuit judge elected by the circuit judges, one associate

9 circuit judge elected by the associate circuit judges of the circuit, and two
10 members appointed by the mayor of the City of St. Louis, each of whom shall
11 represent one of the two political parties casting the highest number of votes at
12 the next preceding gubernatorial election. The procedures and operations of the
13 landlord-tenant court judicial commission shall be established by circuit court
14 rule.

15 2. Landlord-tenant commissioners may be authorized to hear in the first
16 instance disputes involving landlords and their tenants. Landlord-tenant
17 commissioners shall be authorized to make findings of fact and conclusions of law,
18 and to issue orders for the payment of money, for the giving or taking of
19 possession of residential property and any other equitable relief necessary to
20 resolve disputes governed by the laws in chapters 441, 524, 534, and this
21 chapter. Landlord-tenant commissioners may not, by ex parte means, hear cases
22 and issue orders.

23 3. Landlord-tenant commissioners shall be licensed to practice law in this
24 state and shall serve at the pleasure of a majority of the circuit and associate
25 circuit judges, en banc, and shall be residents of the City of St. Louis, and shall
26 receive as annual compensation an amount equal to one-third of the annual
27 compensation of an associate circuit judge. Landlord-tenant commissioners shall
28 not accept or handle cases in their practice of law which are inconsistent with
29 their duties as a landlord-tenant commissioner and shall not be a judge or
30 prosecutor for any other court. Landlord-tenant commissioners shall not be
31 considered state employees and shall not be members of the state employees' or
32 judicial retirement system or be eligible to receive any other employment benefit
33 accorded state employees or judges.

34 4. A majority of the judges of the circuit, en banc, shall establish
35 operating procedures for the landlord-tenant court. Proceedings in the landlord-
36 tenant court shall be conducted as in cases tried before an associate circuit
37 judge. The hearing shall be before a landlord-tenant commissioner without jury,
38 and the commissioner shall assume an affirmative duty to determine the merits
39 of the evidence presented and the defenses of the defendant and may question
40 parties and witnesses. Clerks and computer personnel shall be assigned as
41 needed for the efficient operation of the court.

42 5. The parties to a cause of action before a commissioner of the landlord-
43 tenant court are entitled to file with the court a motion for a hearing in associate
44 circuit court within ten days after the mailing, or within ten days after service.

45 6. Operating procedures shall be provided for electronic recording of
46 proceedings at city expense. Any person aggrieved by a judgment in a case
47 decided under this section shall have a right to **a trial de novo in circuit**
48 **court, or** an appeal to the appropriate appellate court, in the same manner as
49 would a person aggrieved by a decision of an associate circuit judge under section
50 535.110. The procedures for perfecting the right of **a trial de novo or** an appeal
51 shall be the same as that provided pursuant to sections 512.180 to 512.320.

52 7. Any summons issued for the proceedings in the landlord-tenant court
53 shall have a return date of ten days. The sheriff must attempt to serve any
54 summons within four days of the date of issuance.

55 8. All costs to establish and operate a landlord-tenant court under this
56 section shall be borne by the City of St. Louis.

535.210. 1. In the sixteenth judicial circuit, upon adoption of an
2 ordinance by Jackson County providing for expenditure of county funds for such
3 purpose, a majority of the circuit court judges, en banc, may establish a landlord-
4 tenant court, which shall be a division of the circuit court, and may authorize the
5 appointment of not more than two landlord-tenant court commissioners. The
6 landlord-tenant court commissioners shall be appointed by a landlord-tenant
7 court judicial commission consisting of the presiding judge of the circuit, who
8 shall be the chair, one circuit judge elected by the circuit judges, one associate
9 circuit judge elected by the associate circuit judges of the circuit, and two
10 members appointed by the county executive of Jackson County, each of whom
11 shall represent one of the two political parties casting the highest number of
12 votes at the next preceding gubernatorial election. The procedures and
13 operations of the landlord-tenant court judicial commission shall be established
14 by circuit court rule.

15 2. Landlord-tenant commissioners may be authorized to hear in the first
16 instance disputes involving landlords and their tenants. Landlord-tenant
17 commissioners shall be authorized to make findings of fact and conclusions of law,
18 and to issue orders for the payment of money, for the giving or taking of
19 possession of residential property and any other equitable relief necessary to
20 resolve disputes governed by the laws in chapters 441, 524, 534, and this
21 chapter. Landlord-tenant commissioners may not, by ex parte means, hear cases
22 and issue orders.

23 3. Landlord-tenant commissioners shall be licensed to practice law in this
24 state and shall serve at the pleasure of a majority of the circuit and associate

25 circuit judges, en banc, and shall be residents of Jackson County, and shall
26 receive as annual compensation an amount equal to one-third of the annual
27 compensation of an associate circuit judge. Landlord-tenant commissioners shall
28 not accept or handle cases in their practice of law which are inconsistent with
29 their duties as a landlord-tenant commissioner and shall not be a judge or
30 prosecutor for any other court. Landlord-tenant commissioners shall not be
31 considered state employees and shall not be members of the state employees' or
32 judicial retirement system or be eligible to receive any other employment benefit
33 accorded state employees or judges.

34 4. A majority of the judges of the circuit court, en banc, shall establish
35 operating procedures for the landlord-tenant court. Proceedings in the landlord-
36 tenant court, shall be conducted as in cases tried before an associate circuit
37 judge. The hearing shall be before a landlord-tenant commissioner without jury,
38 and the commissioner shall assume an affirmative duty to determine the merits
39 of the evidence presented and the defenses of the defendant and may question
40 parties and witnesses. Clerks and computer personnel shall be assigned as
41 needed for the efficient operation of the court.

42 5. The parties to a cause of action before a commissioner of the landlord-
43 tenant court are entitled to file with the court a motion for a hearing in associate
44 circuit court within ten days after the mailing, or within ten days after service.

45 6. Operating procedures shall be provided for electronic recording of
46 proceedings at county expense. Any person aggrieved by a judgment in a case
47 decided under this section shall have a right to **a trial de novo in circuit**
48 **court, or** an appeal to the appropriate appellate court, in the same manner as
49 would a person aggrieved by a decision of an associate circuit judge under section
50 535.110. The procedures for perfecting the right of **a trial de novo or** an appeal
51 shall be the same as that provided pursuant to sections 512.180 to 512.320.

52 7. Any summons issued for the proceedings in the landlord-tenant court
53 shall have a return date of ten days from the date of service. Service must be
54 attempted within four days of the date of issuance.

55 8. All costs to establish and operate a landlord-tenant court under this
56 section shall be borne by Jackson County.

535.300. 1. A landlord may not demand or receive a security deposit in
2 excess of two months' rent.

3 2. All security deposits shall be held by the landlord for the tenant, who
4 is a party to the rental agreement, in a bank, credit union, or depository

5 institution which is insured by an agency of the federal government. [Security
6 deposits shall not be commingled with other funds of the landlord. All security
7 deposits shall be held in a trust established by the landlord and deposited in a
8 bank, credit union, or depository institution account in the name of the trustee.]
9 Any interest earned on a security deposit shall be the property of the landlord.
10 [A landlord licensed under and subject to the requirements of chapter 339, in lieu
11 of complying with this subsection, shall maintain all tenant security deposits in
12 a bank, credit union, financial or depository institution account, and shall not
13 commingle such security deposits with other funds of the landlord except as
14 provided in section 339.105.] A housing authority created under section 99.040
15 or any other government entity acting as a landlord shall not be subject to this
16 subsection.

17 3. Within thirty days after the date of termination of the tenancy, the
18 landlord shall:

19 (1) Return the full amount of the security deposit; or

20 (2) Furnish to the tenant a written itemized list of the damages for which
21 the security deposit or any portion thereof is withheld, along with the balance of
22 the security deposit.

23 The landlord shall have complied with this subsection by mailing such statement
24 and any payment to the last known address of the tenant.

25 4. The landlord may withhold from the security deposit only such amounts
26 as are reasonably necessary for the following reasons:

27 (1) To remedy a tenant's default in the payment of rent due to the
28 landlord, pursuant to the rental agreement;

29 (2) To restore the dwelling unit to its condition at the commencement of
30 the tenancy, ordinary wear and tear excepted; provided, however, that this
31 subdivision does not preclude a landlord and tenant from agreeing, in the rental
32 agreement between them, upon amounts or fees to be charged for cleaning of the
33 carpet, and such amounts actually expended for carpet cleaning can be withheld
34 from the security deposit, so long as the rental agreement also includes a
35 provision notifying the tenant that he or she may be liable for actual costs for
36 carpet cleaning that exceed ordinary wear and tear, which may also be withheld
37 from the security deposit. Within thirty days of the end of the tenancy, the
38 landlord shall provide the tenant a receipt for the actual carpet cleaning costs;
39 or

40 (3) To compensate the landlord for actual damages sustained as a result

41 of the tenant's failure to give adequate notice to terminate the tenancy pursuant
42 to law or the rental agreement; provided that the landlord makes reasonable
43 efforts to mitigate damages.

44 5. The landlord shall give the tenant or his representative reasonable
45 notice in writing at his last known address or in person of the date and time
46 when the landlord will inspect the dwelling unit following the termination of the
47 rental agreement to determine the amount of the security deposit to be withheld,
48 and the inspection shall be held at a reasonable time. The tenant shall have the
49 right to be present at the inspection of the dwelling unit at the time and date
50 scheduled by the landlord.

51 6. If the landlord wrongfully withholds all or any portion of the security
52 deposit in violation of this section, the tenant shall recover as damages twice the
53 amount wrongfully withheld.

54 7. Nothing in this section shall be construed to limit the right of the
55 landlord to recover actual damages in excess of the security deposit, or to permit
56 a tenant to apply or deduct any portion of the security deposit at any time in lieu
57 of payment of rent.

58 8. As used in this section, the term "security deposit" means any deposit
59 of money or property, however denominated, which is furnished by a tenant to a
60 landlord to secure the performance of any part of the rental agreement, including
61 damages to the dwelling unit. This term does not include any money or property
62 denominated as a deposit for a pet on the premises.

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